Commission Meeting **11:00 a.m.** **March 20, 2024**

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, March 20, 2024, with Mayor Giefer presiding and Commissioners Brinkman, Harter, Sauder, and Smith present. Also present were City Manager Cocking, Assistant City Manager Detter, City Clerk Sull and City Attorney Montgomery.

CITY COMMISSION
(Public Comment)

This is the time for the public to make comments.

The public is invited to make comments at this time. Please limit comments to two (2) minutes each. Please state your name and address prior to making comments.

No comments were made at this time.

COMMUNITY DEVELOPMENT BLOCK GRANT
(Close Out CDBG Commercial Rehabilitation)
(Radius Project at 17 W. 4th Avenue Project No. 22-CR-004)
(Public Hearing)

Mark Detter, Assistant City Manager, was recognized and addressed the Governing Body. He stated the City of Emporia is required to hold a public hearing for the purpose of closing out CDBG Project No. 22-CR-004 for the Commercial Rehabilitation Project at 17 W. 4th Avenue, Radius Project. He stated a letter was sent from the Kansas Department of Commerce CDBG Project detailing the final monitoring of the project, including the completion of the construction project after 22 months and the project meeting the national objective of eliminating slums and blight on a spot basis. He stated there were no concerns with the project and the City is in good standing with the state and federal program requirements. He stated the City requested $250,000.00 and expended $248,000.00 of the CDBG grant. The City will receive the final $2,000.00 of the Grant award at close-out. The business and local property owner have spent $175,320.00. A public hearing will need to be conducted as part of the CDBG Grant close-out procedure.

Casey Woods, Executive Director, was recognized and addressed the Governing Body. He stated he wanted to thank the City for getting involved in this CDBG grant. Dry Cleaner buildings are notoriously hard to convert to other uses. Between the city's efforts and the efforts of other local officials, in particular, Senator Jeff Longbine, with his work with KDHE, and the partnership between some young entrepreneurs for taking a large building and converting into a productive use and add jobs in the area. He stated these types of investments are critically important to communities and downtowns. He stated he appreciates the City of Emporia continuing to work with entrepreneurs for alternative financing to make these projects live. He stated they are still a few months away from being open.

Mayor Giefer then declared the public hearing open.

As no one in attendance wished to address the Governing Body, Mayor Giefer then declared the public hearing closed.

INDUSTRIAL REVENUE BONDS
(Intent to Issue IRB's for $9,000,000.00 for Gazette Building Development, LLC)
(Resolution Number 3730)

Tayler Wash, Director of Special Projects, was recognized and addressed the Governing Body. She stated the adoption of this proposed resolution is the first step in the issuance of Industrial Revenue Bonds in the amount of $9,000,000.00 for the Gazette Building Development, LLC, at 517 Merchant Street, for the purpose of purchasing, acquiring, construction, furnishing and equipping a commercial and residential facility in Emporia, Kansas. The proposed repurposing of the building will maintain the integrity and history of the building while creating flexible use. The mixed-use development will feature five live-work residential units, three short-stays, one office space, an artist studio and a restaurant. She stated the property will be eligible for sales tax exemption and property tax exemption for a term of ten years, subject to fulfillment of the conditions of the city's public incentives policy. The City is not liable for the principal or interest on the bonds under Kansas Statutes. She stated staff is recommending approval of the resolution regarding the interest to issue Industrial Revenue Bonds (IRBs) in the amount of $9,000,000.00 for the Gazette Building Development, LLC.

Mary Carson, representing Triplett Woolf Garretson, LLC, stated this was step one for the issuance of the bonds which will allow them to get the project started by applying to the Kansas Department of Revenue for a sales tax exemption certificate. It also conditions the issuance of the bonds on negotiation of successful agreements between the City and tenants, trustees and all other parties that will be involved. The resolution states that the bonds will not exceed $9,000,000.00 principal amount. If for some reason it exceeds that amount, then the resolution would need to be amended. This will allow them to start on a development agreement and other matters.

Commissioner Smith made a motion to approve Resolution Number 3730, a resolution regarding the intent to issue Industrial Revenue Bonds in the amount of $9,000,000.00 for the Gazette Building Development, LLC. Commissioner Harter seconded the motion. Commissioner Brinkman stated she appreciated the cogent set of documents that were received in plenty of time to review the agenda item, and thanked Ms. Eimer for answering her questions. There was a call for the vote as follows: Commissioner Smith, aye; Commissioner Harter, aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; and Mayor Giefer, aye.

FIRE DEPARTMENT
(Contract Agreement for Design Phase with GLMV Architecture, Inc.)
(Fire Station Projects)

Brandon Beck, Fire Chief, was recognized and addressed the Governing Body. He stated a previous selection process was undertaken to identify a suitable architectural firm for the replacement of Fire Station No. 1. He stated the City has since determined it is in the City's best interest to proceed with GLMV Architecture, Inc., for the subsequent design phase of the project. He stated GLMV, who is rebranding to Tessere, was initially the second choice, however, their proposal and approach have been reassessed and they are more closely aligned with the City's goals for the Fire Station No. 1 project, offering superior value in terms of innovation, functionality and cost efficiency. He stated the proposed contract with GLMV outlines a fee structure of $672,750.00, plus estimated reimbursable expenses of $11,500.00. This arrangement ensures adherence to the City's budgetary constraints while striving for the highest standards of design and functionality. He stated this will be paid from the Bond and Interest Fund. He stated staff recommends awarding the Architect Contract for Design Phase of the Fire Station Project to GLMV Architecture, Inc. for fees of $672,750.00 plus reimbursable expenses estimated at $11,500.00.

Commissioner Harter made a motion to award architect contract for design phase of the fire station project to GLMV Architecture, Inc. Commissioner Smith seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; and Mayor Giefer, aye.

PLANNING AND DEVELOPMENT
(Request of Emporia Enterprises, Inc. – Industrial Park IV)
(Intent w/Lyon County to Annex Right-of-Way for a Portion of Road 180)
(Resolution Number 3729)

Justin Givens, Planning and Zoning Administrator, was recognized and addressed the Governing Body. He stated the Commission previously adopted a resolution requesting that the Lyon County Board of County Commissioners make certain findings regarding the annexation of Industrial Park IV, which would allow the property to be annexed into city limits. That resolution only contained the Industrial Park IV property and Road F right-of-way. This proposed resolution and request includes right-of-way for a portion of Road 180 that is adjacent to Industrial Park IV. He stated when the City receives a petition and consent for annexation from a property owner and that property is not contiguous with the City, a resolution from the Governing Body must be adopted asking the Board of County Commissioners to make certain findings to allow the process to move forward. He stated this is a resolution of intent that would make the right-of-way for a portion of Road 180 to annex into city limits. If approved by the Board of County Commissioners, an ordinance for annexation will be presented at a future meeting.

Commissioner Smith made a motion to approve Resolution Number 3729 requesting the Lyon County Board of County Commissioners to make certain findings regarding the annexation of property. Commissioner Sauder seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; and Mayor Giefer, aye.

ENGINEERING
(Award Industrial Park III Watermain Improvements)
(Penny Lane, South Avenue and Road M5)
(Project No. WM2202)
(Bids)

Jim Ubert, City Engineer, was recognized and addressed the Governing Body. He stated bids were received for the Industrial Park III Watermain Improvements, Project No. WM2202. This project will be for the construction of watermain on Penny Lane, South Avenue and Road M5. The bids are as follows:

BID TABULATION FOR INDUSTRIAL PARK III WATERMAIN IMPROVEMENTS

Contractor	Total Bid
S. R. Coffman Construction	$573,034.00
Smoky Hill Construction	$593,572.00
Mies Construction	$600,000.00
Ditch Diggers, Inc.	$600,560.05
Double J Construction	$639,773.09
Matador Construction	$678,706.00
Nowak Construction	$681,483.00
Carlson Utility, Inc.	$737,585.00
Engineer's Estimate	$1,001,950.00

He stated this project consists of a new watermain to extend connectivity around the JAE Properties Kansas, LLC, located at 2000 Penny Lane, for future development and will bolster the water system in the Industrial Park III area. This project will be funded by Economic Development Funds from the Kansas Department of Commerce. He stated staff recommends awarding the project to S. R. Coffman Construction for the bid amount of $573,034.00.

Commissioner Brinkman made a motion to award the Industrial Park III Watermain Improvements, Project WM2202 to S. R. Coffman Construction in the amount of $573,034.00. Commissioner Harter seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Harter, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

CITY COMMISSION
(Use and Improvement of Welch Stadium)
(Emporia State University)
(Memorandum of Understanding)

City Manager Cocking stated Emporia State University (ESU) and the City of Emporia have proposed a Memorandum of Understanding to formalize collaborative efforts for the use, enjoyment, maintenance, and improvement of Welch Stadium facility located on ESU campus. He stated the MOU outlines the commitments of both ESU and the City towards facilitating public access to the Welch Stadium and supporting the enhancement of ESU's campus community including:

ESU commits to facilitating reasonable public access to Welch Stadium, ensuring all users abide by established rules for safety and proper use.

ESU agrees to assist in promoting the City by providing space for city promotional materials during selected events at the facility.

The City commits to a financial contribution totaling $400,000.00 to ESU, allocated in two payments, to support the maintenance and improvement of campus facilities including athletic spaces.

Both parties agree to terms regarding the request for accounting and limitations on promotional activities, ensuring compliance with NCAA regulations and local laws.

The MOU has an effective date of March 20, 2024, and will remain in effect through March 20, 2027, unless terminated earlier by either party under the terms provided.

He stated there is a daily prorated amount of said total payment determined to be $365.30 per day. If this MOU is terminated after payment is made, ESU shall reimburse the City for any portion of the payment that otherwise would have been allocated on a daily prorated basis for the portion of the Term of this MOU that is unused. He stated staff recommends approval of the MOU between Emporia State University and the City of Emporia as presented and authorize the necessary budget allocations for financial commitments under the terms of the MOU.

Commissioner Harter made a motion to approve the MOU between Emporia State University and the City of Emporia as presented and authorize the necessary budget allocations to fulfill the City's financial commitments under the terms of the MOU. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

CITY COMMISSION
(Adopting Event Fencing Policy 2-24)
(Resolution Number 3731)

City Attorney Montgomery was recognized and addressed the Governing Body. She stated the City purchased portable crowd barrier fencing in 2018 utilizing transient guest tax funds. The event fencing is intended for use during special events in the community. Previously, city fencing has been required for events in which alcohol is sold or consumed, and rental fees were based on a per-panel rate. Rental fees were returned to the transient guest tax fund for reimbursement of the initial purchase. The proposed resolution adopts a formal Event Fencing Policy establishing procedures for the use and rental of city fencing at special events. Under the new policy, rental fees will be based on staff time spent rather than a per-panel rate. She stated this is expected to lower the cost of fence rental for most events and give event organizers flexibility in requesting and paying for only the delivery and set-up services they need. The Police Chief will be authorized to require the use of city fencing at any event where it is deemed necessary for public safety. City event fencing will continue to be required at some events involving alcohol but may not be required for the full perimeter of an event and will not be required at every event if a suitable alternative in compliance with state law is utilized. She stated staff recommends approval of Resolution Number 3731 adopting event fencing policy.

Commissioner Smith made a motion to approve Resolution Number 3731, a resolution adopting Event Fencing Policy 2-24. Commissioner Sauder seconded the motion. Commissioner Harter thanked the City Attorney Montgomery, Chief Owens and others that came up with a reasonable up to date fence policy. There was a call for the vote as follows: Commissioner Smith, aye; Commissioner Sauder, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; and Mayor Giefer, aye.

CITY MANAGER'S REPORT
(Financials & Building Permits)

This is the time for the City Manager to make comments and reports to the public.

The following is general information for the month of February 2024 for community:

1. Monthly Local Retail Sales Tax Receipts Update

	2023	2024	
	$ 597,681.00	$ 597,914.46	**Increase of $233.46** for the month, and Overall increase of 0.12% from year 2023.
YTD	**$1,113,687.92**	**$1,115,283.82**	

2. City Share from County Tax

	2023	2024	
	$ 326,755.28	$ 302,081.88	**Decrease of $24,673.60** for the month, and Overall decrease of 3.82% from year 2023.
YTD	**$ 591,799.66**	**$ 570,044.59**	

Building Permits issued from 2/1/2024 to 2/29/2024 for new construction, remodeling/repairs and demolition.

Total number of building permits issued through Code Services:	54
Total of valuations associated with those building permits:	$ 3,140,479.35
Total number of dollars collected for Building Permit Fees:	$ 12,528.50
Construct – Single-family dwellings	1
Demo – Single-family dwellings	1
Flint Hills Mall CID for February 2024	$ 24,236.54
YTD	**$ 40,945.56**
Pavilions CID for February 2024	$ 24,013.67
CID #2	**$** 24,012.84
YTD	**$ 82,328.47**

City Manager Cocking stated he wanted to point out on financials and permits the City's sales tax was up .12%, the County's sales tax was down 3.82%; that is due to the County increasing its property taxes. The County sales tax is based on a formula that divides the funds in half. Half is based on population, each entity gets their percentage of the population. The City gets the majority of that due to the vast majority of the population in Lyon County lives in the City of Emporia. The County only gets to count the unincorporated portion of Lyon County for their distribution of that half. The other half is based on total Ad Valorem taxes, since the County has a much higher valuation, thanks to the peaking plant, and then they raised their mill levy, that lowers our half of the funds, in comparison the City is receiving less sales tax than the County. That is why the City is down because the County raised taxes, when that happens you get higher percentage of motor vehicle taxes and higher percentage of sales taxes when you increase your mill levy and increase your total amount of property taxes.

Commissioner Brinkman asked if it was a gain, loss or a wash for us in terms of collecting under one mechanism versus the other.

City Manager Cocking stated for us it is a year over year loss, for the County it is a year over year gain. For future conversations for use concerning sales tax, remember that the County is receiving a larger portion of the sales tax.

Mayor Giefer asked if that was a state law.

City Manager Cocking stated it was a state law and state formula. Ninety-one percent of all Lyon County sales tax is collected within the city limits.

Consent Agenda

It was moved by Commissioner Harter, seconded by Commissioner Brinkman that the Consent Agenda listed below be ratified as a whole:

a. Approve minutes of the Regular Meeting held on March 6, 2024.

b. Ordinance Number 24-09 Establishing a Common Consumption Area Sponsored by Emporia Main Street.

   AN ORDINANCE ESTABLISHING A COMMON CONSUMPTION AREA AND AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGE WITHIN THE COMMON CONSUMPTION AREA BOUNDARIES, to which the City Clerk assigned Ordinance Number 24-09, was presented to the Governing Body for their consideration.

c. Ordinance Number 24-10 Establishing a Common Consumption Area Sponsored by Radius Production, LLC.

   AN ORDINANCE ESTABLISHING A COMMON CONSUMPTION AREA AND AUTHORIZING THE POSSESSION AND CONSUMPTION OF ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGE WITHIN THE COMMON CONSUMPTION AREA BOUNDARIES, to which the City Clerk assigned Ordinance Number 24-10, was presented to the Governing Body for their consideration.

d. Reschedule April 17, 2024, City Commission Meeting to Tuesday, April 16, 2024, at 11:00 a.m.

The vote follows: Commissioner Harter, aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

CITY COMMISSION
(City Manager's Report)

This is an opportunity for the City Manager to present information to the public that may not be reported in other news accounts or City activities or to highlight accomplishments of the organization.

At the time this Agenda was prepared, the following items were in the works:

TENTATIVE AGENDA FOR APRIL 3, 2024, MEETING.

- Proclamation Recognizing April 7 – 13th as National Library Week.
- Proclamation Recognizing April as Fair Housing Month.
- Public Hearing for Emporia West Plaza CID.
- Appoint Member to EHRC.
- Bald Eagle Renovation Project.

Study Session:

CITY COMMISSION
(Public Comment)

This is the time for the Mayor and City Commissioners to make comments and reports to the public.

EXECUTIVE SESSION

Commissioner Harter made a motion to recess into Executive Session to discuss confidential matters of a third party for a potential development project resuming the open meeting in the City Commission Meeting Room, this same date, at 11:50 a.m. and invite Tayler Wash, Director of Special Projects, Jim Ubert, City Engineer, and Jim Witt, Interim RDA President. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

Upon reconvening the meeting in Regular Session, at 11:50 a.m., this same date, in the City Commission Meeting Room, Commissioner Harter made a motion to continue the Executive Session discussion for the reasons stated previously with all the same people and resuming the open meeting in the City Commissioner Meeting Room this same date at 12:06 p.m. Commissioner Sauder seconded the motion. The vote follows: Commissioner Harter, aye; Commissioner Sauder, aye; and Mayor Giefer, aye. Commissioners Brinkman and Commissioner Smith were not present at the time of the vote.

Upon reconvening the meeting in Regular Session, at 12:06 p.m., this same date in the City Commission Meeting Room, Mayor Giefer stated they had discussed confidential matters of a third party for a potential development project and no action was taken.

Commissioner Smith made a motion to recess the meeting until 12:25 p.m. to Conference Room 1AB. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Harter, aye; Commissioner Sauder, aye; and Mayor Giefer, aye.

The following items were discussed at Study Sesson:

1. Amendment to the Memorandum of Understanding by and Among the City of Emporia, The Emporia Recreation Commission, and Emporia Unified School District 253.
2. Review Community Survey.
3. Strategic Visioning Session One.

Study Session Discussion:

City Commission
Amendment to the Memorandum of Understanding
Emporia Recreation Commission
Emporia Unified School District 253

City Manager Cocking stated the MOU that was created to establish a Steering Committee to explore options for a new recreational facility was tasked with producing a RFQ for a CMAR for the project by March 15, 2024. That deadline did not happen due to the first meeting of the committee was held on March 11, 2024. The Steering Committee discussed the possibility of amending the current MOU by written agreement of the parties to authorize the Steering Committee to modify the MOU by a unanimous 7 – 0 vote.

Commissioner Harter made a motion to authorize the City Manager to approve the amendments/modifications to the Memorandum of Understanding (MOU) for the

Recreation Steering Committee. Commissioner Smith seconded the motion. Following further discussion the vote follows: Commissioner Harter, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; and Mayor Giefer, aye.

Commissioner Smith then made a motion to adjourn. Commissioner Harter seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Harter, aye; Commissioner Brinkman, aye; Commissioner Sauder, aye; and Mayor Giefer, aye.

Danny Giefer, Mayor

ATTEST:

Kerry Sull, City Clerk

CITY OF EMPORIA, LYON COUNTY, K
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